

REMARKS

Claims 1 - 15 are currently pending in the application. Claims 1-15 are rejected.

Claim Rejections - 35 USC 112

Claims 8 was rejected under 35 USC 112 second paragraph as being unclear. Claim 8 has been amended to clarify that "tensionably connected" means "such as to have a normal position at zero tension and wherein increasing displacement causes increasing tension against said displacement."

Claim Rejections - 35 USC 102

Claims 1-6 and 12-15 were rejected under 35 U.S.C. § 102(b) as anticipated by Lacey, US 471,389.

In light of the objection, claims 1, 13, 14 and 15 are amended based on the feature of the outlet of original claim 4, now cancelled. The claims now define a flow-through device, in which gas flows from the inlet, through the chamber to an outlet. The outlet is open to ambient pressure, and the pressure displaceable member moves in response to gas flow, experienced by the pressure displaceable member as an increased pressure on its interior facing side. It is noted that in the case of a flow-through device, the pressure is a dynamic pressure, indicative of gas flow, and what is measured is gas flow. Indeed the preamble of the claim refers specifically to gas flow.

By contrast the device of Lacey is not a flow through device as now defined by the amended claims. Rather Lacey measures static pressure in order to determine

the capacity or strength of the lungs. There is no outlet open to gas flow from the inlet. Rather his pressure displaceable member blocks flow completely. His equivalent of the outlet is indeed open to ambient pressure, but does not allow gas flow from the chamber as required by the claim.

In summary, the independent claims in accordance with the current amendments require a pressure displaceable member that intercedes between the chamber and the outlet, such that the member can be displaced by gas flow through the device to the outlet. By contrast, neither Lacy nor any of the other citations describe or suggest a device that allows flow through the device and provides an indicator that indicates the existence of gas flow through the device.

The remaining claims are believed to be allowable as being dependent on allowable main claims.

Claims rejections – 35 USC 103

Claims 7, 9, 10 and 11 were rejected under 35 USC 103 as being obvious over Lacey in view of Block, Greenberg, or Montgieux. Claim 8 does not appear to be explicitly rejected by the Examiner, although it is listed as rejected in the summary.

The claims rejected under 35 USC 103 are now dependent upon amended main claims which are in themselves believed to be allowable. That is to say, as the structure defined in Lacey has now been distinguished by the present amendments, it is not believed that the combination of Lacey with any of the other documents suggests a flow through device. Thus the dependent claims, which are to specific features added to the flow through device, are not shown in or suggested by the combinations of documents recited by the Examiner.

Block et al does not show a flow through device, but rather a *closed circuit* anaesthesia device. Greenberg teaches a device where a piston rises in accordance with the total volume inhaled. Such is only possible if retention of gas is carried out, and thus by definition it cannot be a flow through device. Montgieux is not a gas measuring device of any kind, flow through or otherwise.

In view of the foregoing, it is submitted that claims 1-15 pending in the application are allowable. An early Notice of Allowance is therefore respectfully requested.

Respectfully submitted,



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